

1 Scott Alan Burroughs (SBN 235718)  
2 scott@donigerlawfirm.com  
3 Frank R. Trechsel (SBN 312199)  
4 ftrechsel@donigerlawfirm.com  
5 DONIGER / BURROUGHS  
6 603 Rose Avenue  
7 Venice, California 90291  
8 Telephone: (310) 590-1820

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10 Attorneys for Plaintiff

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15       **UNITED STATES DISTRICT COURT**  
16       **CENTRAL DISTRICT OF CALIFORNIA**

17 ROCCO LEO GAGLIOTTI, an individual,

18 Plaintiff,

19 v.

20       MAKEMAKE ENTERTAINMENT  
21 INC., a California corporation;  
22 NUYORICAN PRODUCTIONS, INC., a  
23 California corporation; NETFLIX, INC.,  
24 a Delaware corporation; and DOES 1  
25 through 10,

26 Defendants.

27 Case No.:

28       **PLAINTIFF'S COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT  
(17 U.S.C. § 101, *et. seq.*);
2. VICARIOUS AND/OR  
CONTRIBUTORY COPYRIGHT  
INFRINGEMENT

Jury Trial Demanded

1 Plaintiff ROCCO LEO GAGLIOTTI, by and through his attorneys Doniger /  
2 Burroughs, alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §  
5 101 *et seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and  
7 1338 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and  
9 1400(a) in that this is the judicial district in which a substantial part of the acts and  
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff Rocco Leo Gaglioti (“Gaglioti”) is a well-known television  
13 director, writer, producer and host, currently residing in this District.

14 5. Plaintiff is informed and believes and thereon alleges that MAKEMAKE  
15 ENTERTAINMENT, INC. (“MakeMake”) is a California corporation with its  
16 principal place of business at 30856 Agoura Road, Agoura Hills, California. Plaintiff  
17 further alleges that this entity does substantial business in Los Angeles and this District.

18 6. Plaintiff is informed and believes and thereon alleges that NUYORICAN  
19 PRODUCTIONS, INC. (“Nuyorican”) is a California limited liability company with  
20 its principal place of business located at 10100 Santa Monica Blvd. #1700, Los  
21 Angeles, California.

22 7. Plaintiff is informed and believes and thereon alleges that NETFLIX,  
23 INC. (“Netflix”), is a Delaware corporation with its principal place of business located  
24 at 100 Winchester Circle, Los Gatos, California 95032. Plaintiff further alleges that  
25 this entity does substantial business in Los Angeles.

26 8. Plaintiff is informed and believes and thereon alleges that Defendants  
27 Does 1 through 10 (collectively with MakeMake, Nuyorican, Netflix, “Defendants”),

1 inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights,  
 2 have contributed to the infringement of Plaintiff's copyrights, or have engaged in one  
 3 or more of the wrongful practices alleged herein. The true names, whether corporate,  
 4 individual, or otherwise, of the Does 1-10, inclusive, are presently unknown to  
 5 Plaintiff, which therefore sues said Does 1-10 by such fictitious names, and will seek  
 6 leave to amend this Complaint to show their true names and capacities when same have  
 7 been ascertained.

8. Plaintiff is informed and believes and thereon alleges that at all times  
 9 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
 10 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
 11 at all times acting within the scope of such agency, affiliation, alter-ego relationship,  
 12 and/or employment; and actively participated in or subsequently ratified and/or  
 13 adopted each of the acts or conduct alleged, with full knowledge of all the facts and  
 14 circumstances, including, but not limited to, full knowledge of each violation of  
 15 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

#### **FACTUAL BACKGROUND**

10. Plaintiff is founder of FNL Network, which is a fashion news and lifestyle  
 11 network that goes backstage at all the major fashion weeks around the globe and offers  
 12 other shows featuring a combination of fashion, film, travel, beauty, and reality  
 13 television. Gaglioti is frequently featured as a host on the networks most popular  
 14 television show "Fashion News Live," which covers and provides commentary on the  
 15 most influential and high-profile fashion and entertainment events.

16. Gaglioti produces all original television shows featured on the FNL  
 17 Network and Gaglioti owns all rights to and in video featured thereon and at issue  
 18 herein (the "Subject Recording"). The Subject Recording consists of Gaglioti hosting  
 19 an event, which has been registered with the United States Copyright Office.

1       12. On or about June 8, 2022, Defendants released a documentary titled  
 2 “*Halftime*” featuring the Subject Recording without Plaintiff’s consent or  
 3 authorization.

4       13. On or about May 24, 2023, Plaintiff informed Defendants of their  
 5 infringing conduct and Defendant’s failed to meaningfully respond.

6       14. Defendants, and each of them, have infringed and continue to infringe  
 7 Plaintiff’s copyrighted work by (and without Plaintiff’s permission) producing,  
 8 distributing, promoting, and streaming their film “*Halftime*.”

9       15. Defendants appropriated without authorization substantial portions of  
 10 Plaintiff’s copyrighted work throughout the promotion, distribution, and streaming of  
 11 “*Halftime*” (such portions referred to herein as “Infringing Recording”). For instance,  
 12 the Infringing Recording was featured in the film, screenings at film festivals  
 13 throughout the United States and abroad and streaming on Netflix.

14       16. In each instance, the Infringing Recording in “*Halftime*” is identical or  
 15 virtually identical to Plaintiff’s Subject Recording or is a slightly modified derivative  
 16 of said work.

17       17. Plaintiff is informed and believes, and thereupon alleges, that “*Halftime*”  
 18 has been a commercial success for Defendants, including as a means of driving  
 19 revenues, awareness, and subscriber growth for Netflix and the other Defendants.

20       18. Plaintiff is informed and believes, and now alleges, that Defendants  
 21 yielded substantial revenue from their production, distribution, and streaming of  
 22 “*Halftime*,” including by way of subscriber payments and licensing and production and  
 23 performance and carriage fees.

24       19. Plaintiff is informed and believes, and now alleges that Defendants’  
 25 conduct was willful, given the substantial breadth of Defendants’ infringement, the  
 26 lack of obtainment of a license or other transfer, and the continued exploitation of

1 Plaintiff's work after notice that Plaintiff owned the work and objected to its  
2 exploitation without consent.

3       20. Plaintiff notified Defendants of his allegations of infringement, and  
4 despite notice of Plaintiff's claims, Defendants failed to meaningfully respond and  
5 moved forward with the unauthorized use and continues its broadcast, stream, display,  
6 promotion, and distribution of "*Halftime*" and the Infringing Recording.

## **FIRST CLAIM FOR RELIEF**

**(Copyright Infringement—Against All Defendants, and Each)**

9       21. Plaintiff repeats, re-alleges, and incorporates by reference all preceding  
10 paragraphs of this Complaint.

11       22. Plaintiff is informed and believes and now alleges that Defendants, and  
12 each of them, had access to Plaintiff's copyrighted audio works.

13       23. Plaintiff is informed and believes and now alleges that, without Plaintiff's  
14 authorization, Defendants, and each of them, distributed, marketed, and published  
15 "Halftime" bearing Infringing Recording that is identical to, or substantially similar to,  
16 excerpts from or complete copies of Plaintiff's works.

17       24. Plaintiff is informed and believes and thereon alleges that Defendants,  
18 and each of them, infringed Plaintiff's copyrights by creating "*Halftime*" and then  
19 marketing, distributing, and publishing it to the public.

20        25. Defendants, and each of them, infringed Plaintiff's rights by extracting  
21 the recording from Plaintiff's works, incorporating it into "*Halftime*" and its  
22 promotional materials, and then publishing it without Plaintiff's authorization or  
23 consent. The use of Plaintiff's copyrighted material is crucial to the film's narrative by  
24 providing first-hand and contemporaneous insight into Jennifer Lopez's career and  
25 performances, such as her halftime performance at the Superbowl.

1       26. Due to Defendants', and each of their, acts of infringement, Plaintiff has  
2 suffered actual, general, and special damages in an amount to be established at trial,  
3 including but not limited to a reasonable license fee for Defendants' use of the works.

4       27. Due to Defendants' acts of copyright infringement as alleged herein,  
5 Defendants, and each of them, have obtained direct and indirect profits they would not  
6 otherwise have realized but for their infringement of Plaintiff's rights in Plaintiff's  
7 copyrighted works. As such, Plaintiff is entitled to disgorgement of Defendants' profits  
8 directly and indirectly attributable to Defendants' infringements of his rights in the  
9 works in an amount to be established at trial.

10       28. Plaintiff is informed and believes and now alleges that Defendants, and  
11 each of their, conduct as alleged herein was willful, reckless, and/or with knowledge,  
12 subjecting Defendants, and each of them, to enhanced statutory damages, claims for  
13 costs and attorneys' fees, and/or a preclusion from deducting certain costs when  
14 calculating disgorgable profits.

## **SECOND CLAIM FOR RELIEF**

**(Vicarious and/or Contributory Copyright Infringement—Against All Defendants)**

18       29. Plaintiff repeats, re-alleges, and incorporates by reference all preceding  
19 paragraphs of this Complaint.

20       30. Plaintiff is informed and believes and now alleges that Defendants  
21 knowingly induced, participated in, aided and abetted in, and profited from the illegal  
22 reproduction, distribution, and publication of “*Halftime*” as alleged above.  
23 Specifically, the producers and distributors of the film (MakeMake, Nuyorican, and/or  
24 Netflix) underwrote and participated in the illegal copying during the creation of  
25 “*Halftime*. ” Defendants, and each of them, realized profits through their respective  
26 obtainment, distribution, and publication of the “*Halftime*. ”

1       31. Plaintiff is informed and believes and now alleges that Defendants, and  
2 each of them, are vicariously liable for the infringement alleged herein because they  
3 had the right and ability to supervise the infringing conduct and because they had a  
4 direct financial interest in the infringing conduct. Specifically, each Defendant  
5 involved in the infringement had the ability to oversee the publication and distribution  
6 of the infringing uses. And, Defendants, and each of them, realized profits through their  
7 respective obtainment, distribution, and publication of the “*Halftime*” featuring the  
8 Infringing Recording.

9       32. By reason of Defendants', and each of their, acts of contributory and  
10 vicarious infringement as alleged above, Plaintiff has suffered and will continue to  
11 suffer substantial damages in an amount to be established at trial, as well as additional  
12 actual, general, and special damages in an amount to be established at trial.

13       33. Due to Defendants' acts of copyright infringement as alleged herein,  
14 Defendants, and each of them, have obtained direct and indirect profits they would not  
15 otherwise have realized but for their infringement of Plaintiff's rights in his  
16 copyrighted works. As such, Plaintiff is entitled to disgorgement of Defendants' profits  
17 directly and indirectly attributable to Defendants' infringement of Plaintiff's rights in  
18 his copyrighted works in an amount to be established at trial.

19       34. Plaintiff is informed and believes and now alleges that Defendants', and  
20 each of their, conduct as alleged herein was willful, reckless, and/or with knowledge,  
21 subjecting Defendants, and each of them, to enhanced statutory damages, claims for  
22 costs and attorneys' fees, and/or a preclusion from deducting certain costs when  
23 calculating disgorgable profits.

## PRAYER FOR RELIEF

**(Against All Defendants)**

With Respect to Each Claim for Relief, Plaintiff demands judgment against Defendants as follows:

- 1 a. That Defendants, their affiliates, agents, and employees be  
2 enjoined from infringing Plaintiff's copyrights in and to  
3 Plaintiff's copyrighted works;
- 4 b. Granting an injunction permanently restraining and enjoining  
5 Defendants, their officers, agents, employees, and attorneys, and  
6 all those persons or entities in active concert or participation with  
7 them, or any of them, from further infringing Plaintiff's  
8 copyrights in and to Plaintiff's copyrighted works;
- 9 c. For a constructive trust to be entered over any scenes, recordings,  
10 reproductions, files, and other material in connection with the  
11 infringing project at issue and all revenues resulting from the  
12 exploitation of same, for the benefit of Plaintiff;
- 13 d. That Plaintiff be awarded all profits of Defendants, and each,  
14 plus all losses of Plaintiff, plus any other monetary advantage  
15 gained by the Defendants through their infringement, the exact  
16 sum to be proven at the time of trial;
- 17 e. That Defendants pay damages equal to Plaintiff's actual damages  
18 and lost profits;
- 19 f. That Plaintiff be awarded statutory damages and attorneys' fees  
20 as allowed by law;
- 21 g. That Plaintiff be awarded pre-judgment interest as allowed by  
22 law;
- 23 h. That Plaintiff be awarded the costs of this action; and
- 24 i. That Plaintiff be awarded such further legal and equitable relief  
25 as the Court deems proper.

**DEMAND FOR JURY TRIAL**

2 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
3 38 and the 7th Amendment to the United States Constitution.

Respectfully Submitted,

6 Dated: March 19, 2024 By: /s/ Scott Alan Burroughs  
7  
8 Scott Alan Burroughs, Esq.  
9 Frank R. Trechsel, Esq.  
DONIGER / BURROUGHS  
*Attorneys for Plaintiff*